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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANTHONY CEASER LEWIS,

No. C 08-1361 WHA (PR)

Plaintiff,

ORDER OF DISMISSAL

v.

DEPARTMENT OF JUSTICE and
WEST PUBLISHING,

Defendants.

/

Plaintiff, an inmate of Salinas Valley State Prison, has filed a pro se civil rights complaint under 42 U.S.C. § 1983. Plaintiff also requests leave to proceed in forma pauperis.

DISCUSSION**A. STANDARD OF REVIEW**

Federal courts must engage in a preliminary screening of cases in which prisoners seek redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). In its review the court must identify any cognizable claims, and dismiss any claims which are frivolous, malicious, fail to state a claim upon which relief may be granted, or seek monetary relief from a defendant who is immune from such relief. *Id.* at 1915A(b)(1),(2). Pro se pleadings must be liberally construed. *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1990).

///

1 Federal Rule of Civil Procedure 8(a)(2) requires only "a short and plain statement of the
2 claim showing that the pleader is entitled to relief." "Specific facts are not necessary; the
3 statement need only ""give the defendant fair notice of what the . . . claim is and the grounds
4 upon which it rests."'" *Erickson v. Pardus*, 127 S. Ct. 2197, 2200 (2007) (citations omitted).
5 Although in order to state a claim a complaint "does not need detailed factual allegations, . . . a
6 plaintiff's obligation to provide the 'grounds of his 'entitle[ment] to relief' requires more than
7 labels and conclusions, and a formulaic recitation of the elements of a cause of action will not
8 do. . . . Factual allegations must be enough to raise a right to relief above the speculative
9 level." *Bell Atlantic Corp. v. Twombly*, 127 S. Ct. 1955, 1964-65 (2007) (citations omitted). A
10 complaint must proffer "enough facts to state a claim for relief that is plausible on its face." *Id.*
11 at 1986-87.

12 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential elements:
13 (1) that a right secured by the Constitution or laws of the United States was violated, and (2)
14 that the violation was committed by a person acting under the color of state law. *West v. Atkins*,
15 487 U.S. 42, 48 (1988).

16 | B. LEGAL CLAIMS

17 Plaintiff contends that instructions on a legal form, presumably a form published by
18 defendant West, are unclear. This not a constitutional violation, and given that West is a private
19 company and how far plaintiff is from stating a claim, the dismissal will be without leave to
20 amend.

CONCLUSION

22 The complaint is **DISMISSED** with prejudice. The clerk shall close the file.

23 || IT IS SO ORDERED.

24
25 Dated: March 13 2008

**WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE**

28 || G:\PRO-SE\WHA\CR_08\LEWIS1361.DSM.wpd

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

ANTHONY C. LEWIS,

Case Number: CV08-01361 WHA

Plaintiff,

CERTIFICATE OF SERVICE

v.

DEPT. OF JUSTICE et al,

Defendant.

/

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on March 13, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Anthony Ceaser Lewis
V-95299/ B2-114 Up
Salinas Valley State Prison
PO Box 1050
Soledad, CA 93960-1050

Dated: March 13, 2008

Richard W. Wiekking, Clerk
By: Frank Justiliano, Deputy Clerk